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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF NEVADA
4

5 Cleophus C. Clark,

6 Plaintiff

7 v.

8 Det. G. Riley, *et al.*9 Defendants
10

Case No.: 2:22-cv-01541-CDS-VCF

Order Adopting Report and
Recommendation of the Magistrate Judge

[ECF No. 6]

11 This is a civil rights action brought by *pro se* plaintiff Cleophus Clark. On November 7,
12 2022, United States Magistrate Judge Cam Ferenbach issued an order granting plaintiff's
13 application to proceed *in forma pauperis* (IFP) and dismissing the complaint without prejudice for
14 failing to state a claim. ECF No. 4. That order provided that plaintiff had until Wednesday,
15 December 7, 2022, to file an amended complaint addressing the issues with the complaint,
16 noting that failing to file a timely an amended complaint or failing to update the court of any
17 change of address could result in a recommendation for dismissal with prejudice. *Id.* at 5. Clark
18 did not take any action.

19 On December 9, 2022, the magistrate judge issued a report and recommendation (R&R)
20 that I dismiss this action for failing to comply with the court's November 7, 2022, order (ECF
21 No. 4). ECF No. 6. The R&R recommended dismissal for plaintiff's failure to file an amended
22 complaint and failure to update his current address with the court. *Id.* Under the local rules,
23 Clark had fourteen days to file any objections to the R&R. Local Rule IB 3-2(a) (stating that a
24 party who objects to a report and recommendation from a magistrate judge must file a written
25 objection supported by points and authorities within fourteen days of being served with the
26 report and recommendation). Any objections to Magistrate Judge Ferenbach's R&R were thus

1 due fourteen days after December 9, 2022, *i.e.*, December 23, 2022. *Id.* at 6. As of the date of this
2 order, plaintiff has failed to file an amended complaint, to update his address, or to file
3 objections to the R&R. It is possible that he did not receive a copy because during the pendency
4 of this action, Clark's mail has been repeatedly returned undeliverable. *See* ECF Nos. 5, 7.
5 However, failure to maintain his address is a violation of Local Rule IA 3-1, which requires that a
6 pro se party file with the court written notification of any change of mailing address, email
7 address, or telephone number. LR IA 3-1. Failure to comply may result in the dismissal of the
8 action, entry of default judgment, or other sanctions as deemed appropriate by the court. *Id.*

9 "[N]o review is required of a magistrate judge's report and recommendation unless
10 objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas*
11 *v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).
12 While *de novo* review is not required because Clark failed to file objections, I nevertheless
13 conducted a *de novo* review of the issues set forth in the report and recommendation. 28 U.S.C. §
14 636(b)(1). When reviewing the order of a magistrate judge, the order should only be set aside if
15 the order is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28 U.S.C. §
16 636(b)(1)(A); *Laxalt v. McClatchy*, 602 F. Supp. 214, 216 (D. Nev. 1985). A magistrate judge's order
17 is "clearly erroneous" if the court has "a definite and firm conviction that a mistake has been
18 committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948); *Burdick v. Comm'r IRS*, 979
19 F.2d 1369, 1370 (9th Cir. 1992). "An order is contrary to law when it fails to apply or misapplies
20 relevant statutes, case law or rules of procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*,
21 2014 WL 4635882, at *1 (D. Nev. Sept. 16, 2014). A review of the docket shows that Clark failed
22 to file an amended complaint and failed to update his address with the Clerk of Court before the
23 December 7, 2022, deadline. Accordingly, I find that Judge Ferenbach's R&R was not clearly
24 erroneous or contrary to the law and thus adopt the R&R in its entirety.

25 IT IS THEREFORE ORDERED that the Magistrate Judge Ferenbach's Report and
26 Recommendation [ECF No. 6] is ADOPTED in its entirety.

1 IT IS FURTHER ORDERED that the plaintiff's complaint is STRICKEN and the case is
2 dismissed without prejudice.

3 The Clerk of Court is directed to close the case.

4 DATED this 30th day of December, 2022.

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Cristina D. Silva
United States District Judge
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